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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/854,777

05/14/2001

Edward O. Clapper

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10/13/2004

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EXAMINER

PIZARRO, RICARDO M

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,777

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Ricardo Pizarro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 2-34, 8-10, 12-20 are objected to because of the following informalities and it is suggested to applicant:

In claim 2 line 2 replace the second occurrence of “a” with -said-, in line 3 replace “ a retail facility” with -said retail facility-.

In claim 3 line 3 replace “ said server” with -a server-.

In claim 4 line 2 insert “ said” before -customers-.

In claim 8 line 2 replace “the current” with -a current-.

In claim 9 line 2 insert “said” before -information-, replace “the server” with -a server-.

In claim 10 line 2 insert “said” before -information-.

In claim 12 line 2 insert “said” before -instructions-, in line 3 replace “a plurality” with -said plurality-, replace “a retail” with -the retail-.

In claim 13 line 2 insert “said” before -instructions-.

In claim 14 line 2 insert “said” before -instructions-.

In claim 15 line 2 insert “said” before -instructions-.

In claim 16 line 2 insert “said” before -instructions-.

In claim 17 line 2 insert “said” before -instructions-.

In claim 18 line 2 insert “said” before -instructions-, in line 3 insert “additional” before -information-, replace “the current” with -a current-.

In claim 19 line 1 insert “said” before -instructions-.

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In claim 20 line 2 insert "said" before -instructions-, insert "said" before -information-.

Appropriate correction is required

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3, 8-10, 21-27, 28-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Jelen.

US patent No. 6,129,276 (Jelen et al) discloses a Shopping cart mounted portable data device, comprising wirelessly linking a plurality of shopping carts (shopping carts 18 within retail facility) within a retail facility (retail store in Fig. 1, col 2 line 51) through a local area network (LAN 88 in Fig. 1) based in the retail facility; and enabling the carts to exchange information through said network (wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13), as in claim 1; wherein wirelessly linking includes providing wireless access to a server by a plurality of carts within a retail facility (LAN 88 provides wireless linking), as in claim 2; including providing a processor-based device on a shopping cart to retail customers that wirelessly communicates with said server (Customer information

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terminal 10 in Fig. 1) , as in claim 3; including providing information about the current location of a processor based device associated with a cart (system determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) , col as in claim 8; including providing information about the cart's location to the server (cart location within the store, col 4 line 44) as in claim 9; including pushing information to the cart depending on the cart's current location (request is a TCP/IP packed addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit –push- a new HTML page to the terminal col 9 lines 62-65) , as in claim 10

3. A system comprising: a shopping cart (Shopping cart 18 in Fig. 1) ; a processor mounted on said cart (Processor in terminal device 10 mounted on cart in Fig. 1) ; and a storage coupled to said processor (Memory 106 coupled to processor 32 in fig. 5) to wirelessly link a plurality of carts within a retail facility through a local area network based in the retail facility and enable carts to exchange information through said network (wireless LAN 88 uses a wireless link with shopping carts within retail facility, col 4 line 13), as in claim 21; including a housing, said processor mounted in said housing (Housing 12 in Fig. 2) , as in claim 22; wherein said housing is adjustably mountable on said cart (Housing 12 is adjustably mounted on handle), as in claim 23; wherein said cart includes a handle (Handle 16) and said housing is mounted on said handle, as in claim 24; further including a wireless transceiver(Transceiver 118 in Fig. 5), as in claim 25; further including an interface to enable network communications (antenna interface in Fig. 5), as in claim 26; including a position locating device coupled to said processor(Infrared receiver coupled to operates as a position locating device , col 9 lines 56-60) as in claim 27 ; an audio transducer coupled to said terminal device (audio transducer 130 in

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Fig. 5), as in claim 28; including a card reader coupled to said processor (Reader 22 in Fig. 5) , as in claim 29; including a bar code 2 scanner coupled to said processor (Barcode in Fig. 5, col 2 line 12) , as in claim 30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11-12 , 17-20 are, rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen.

An article that wirelessly links a plurality of shopping carts (shopping carts 18 within retail facility) within a retail facility (retail store in Fig. 1, col 2 line 51) through a local area network (LAN 88 in Fig. 1) based in the retail facility; and enable the carts to exchange information through said network(wireless LAN 88 provides a wireless link within retail facility, col 4 line 13) , as in claim 11; enabling the processor-based system to be accessed wirelessly by a plurality of carts within a retail facility (LAN 88 provides wireless linking) , as in claim 12; enable the processor based system to push electronic files to the carts (col 9

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lines 62-65) , as in claim 17; enable the processor-based system to provide information about the current location of a processor-based device associated with a cart (system determines whether the terminal 10 associated with shopping cart 18 has moved to a new location , col 9 line 56-57) as in claim 18; enable the processor-based system to determine the cart's location (cart location within the store, col 4 line 44), as in claim 19; enable the processor-based system to push information to a cart depending on the cart's current location(request is a TCP/IP packed addressed to the server which includes the new location and instructions to launch a program on the server which determines whether to transmit a new HTML page to the terminal , col 9 lines 62-65) , as in claims 7 and 20.

Jelen did not specifically a medium for storing instruction to enable the processor-based system as disclosed in claims 11-20.

Therefore, in order to have a program o computer controlled process it would have been obvious to a person of ordinary skill in the art at the time of the invention that some kind of medium such as a memory or storage means would have been needed, with the motivation of obtaining a method for configuring a layer or protocol prior to commencement of data communications including an air interface that supports implementations of a variety of functions such as voice communications, and data.

5. Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen.

Jelen did not specifically disclose including enabling customers to activate said device by swiping a card through a slot in said device, as in claim 4; recognize a processor based device on a shopping cart used by a customer in response to a credit card swipe through a slot in said device, as in claim 13.

However Jelen discloses making use of a magnetic card to activate said device (col 9 line 1).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention than in view of the swiping of a magnetic card as disclosed by Jelen, that a credit card could have been used to enable a customer to activate said terminal device, this with the motivation of obtaining a secure mechanism that would allow the exchange of information residing in a customer portable terminal device that may be readily communicated with a supplier or merchant.

6. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen. Jelen did not specifically disclose including receiving audible communications from said carts , as in claim 5;said processor based system to receive audible communications from said carts, as in claim 14.

However , Jelen disclosed in the preferred embodiment data communication between the shopping cart 18 and the LAN 88 is accomplished through a radio frequency RF link (col 4 lines 19-22) processor based system to receive audible communications from said carts, as in claims 5 and 14.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention that due to the RF link between the LAN and the devices within the facility the Jelen reference would have been able to receive audible communications from said carts, with the motivation of obtaining a retail system that allows users to communicate through audible signals within said facility and obtain a mechanism by which inter exchange data between a retailer and a costumer.

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7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen in view of.

Jelen did not specifically disclose the system broadcasting files to said carts, as in claim 15.

However US patent No. 6,386, 459 discloses an Electronic shopping system, including the broadcasting of audio files to a customer portable terminal device in a retail facility (col 5 lines 23-25 and 33-35), as in claim 15.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the broadcasting of audio files as disclosed by Ogasawara to a customer terminal device as the one disclosed by Jelen with the motivation of obtaining a retail system that is able to give directions to a customer on items to purchase based on the customer's current location within the retail facility.

8. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jelen.

Jelen did not specifically disclose enabling carts to communicate via text messages with one another over said network, as in claims 6 and 16.

However US patent No. 5,742,238 (Fox) discloses a system for communication between a central controller and items in a factory, including a terminal device (terminal device 12 in Fig. 1) that communicates via text messages with one another over said network (col 4lines 61-67), as in claims 6 and 16.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide the text message means as disclosed by Fox to the system disclosed by Jelen with the motivation of obtaining a retail system that allows users to enter and transmit

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messages containing short text strings from a device to another device within a network in the retail facility.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US patent No. 6,714,969 discloses a mobile terminal with integrated application software.
- US patent No. 6,323,753 discloses an automated shopping cart handle.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

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or faxed to:

(703) 872-9306

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20th Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

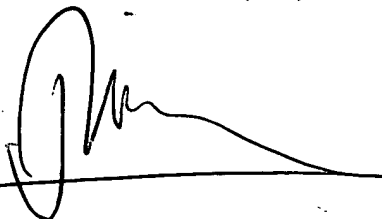
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. The fax number for this Group is (703) 872-9306.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kenneth Vanderpuye** can be reached on (571) 272-3078.

10/11/2004

Ricardo M. Pizarro

A handwritten signature in black ink, appearing to be "Ricardo M. Pizarro", written over a horizontal line. The signature is stylized with a large, looped initial "R" and a long, sweeping tail that extends to the right.